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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/857,763 | 10/09/2001 | Horst Pillhoffer | 10537/119 | 9751 |

26646 7590 02/13/2003

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NEW YORK, NY 10004

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| EXAMINER |
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MEEKS, TIMOTHY HOWARD

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| ART UNIT | PAPER NUMBER |
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1762

DATE MAILED: 02/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------------|-------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/857,763 | PILLHOFFER ET AL. P2 |
| | Examiner Timothy H. Meeks | Art Unit 1762 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____ .
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 8-14 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1 . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strasser et al. (5,215,785) in view of Hayman et al. (4,156,042).

Strasser discloses a method for coating a hollow body comprising contacting the inner surfaces of the hollow body with a powder mixture containing 80 parts alumina filler with a particle size of 150 microns, 40 parts of a metal donor and activator, AlTi, and NH₄F, respectively being exemplified, the donor and activator being in the form of spherical particles with an average size smaller than 150 microns (col. 3, line 60 to col. 4, line 7). It is noted that the filler and donor of Strasser includes the situation where the filler and donor have approximately the same average particle size since "less than 150 microns" includes values that are "approximately equal to" 150 microns. The AlTi donor contains 50% by weight Al.

Strasser does not disclose a metal halide activator such as a metal halide of the donor metal. However, because Hayman discloses at col. 4, lines 5-22 that AlF₃ is a particularly effective activator for aluminizing by pack cementation in obtaining uniform coatings, it would have been obvious to use this activator to achieve these advantages.

The range of amounts of donor and activator disclosed by Strasser overlaps the claimed ranges. It would have been obvious to one of ordinary skill in the art at the time the invention

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was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a *prima facie* case of obviousness, see *In re Malagari*, 182 USPQ 549.

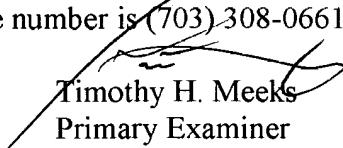
Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strasser in view of Hayman as applied above, and further in view of Warnes et al. (5,989,733).

Use of AlCr donor is not disclosed. However, because Warnes discloses at col. 5, lines 3-13 that such donor is effective for aluminizing by pack cementation, it would have been obvious to use this aluminum donor powder with a reasonable expectation of its being effective for providing the aluminized coating required by Strasser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy H. Meeks whose telephone number is (703) 308-3816. The examiner can normally be reached on Mon, Tue, and Thu, 6:00-6:30, and Sun, 6-10 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Timothy H. Meeks
Primary Examiner
Art Unit 1762

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February 9, 2003